

**BOARD OF ADJUSTMENT  
MINUTES OF THE MEETING  
SEPTMEBER 2, 2008**

- CALL TO ORDER** A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. Board members present were Tony Sagami, Craig Wagner, Gina Klempel, and Scott Hollinger. Mark Hash was absent. Jeff Harris. Bailey Iott, Allison Mouch, and Dianna Broadie represented the Flathead County Planning & Zoning Office.
- There were approximately 17 people in the audience.
- APPROVAL OF MINUTES** No minutes were approved at this meeting.
- PUBLIC COMMENT**  
*(not related to agenda items)* None.
- PUBLIC REVIEW** Hollinger reviewed the public hearing process.
- BIGHORN PLUMBING (FCU 08-11)** A request by Kevin & Donna Kramer and Jason & Kristine Copping, for a Conditional Use Permit to operate a plumbing business in an accessory building within the Evergreen, R-1 (Suburban Residential) Zoning District. The property is located at 100 Drake Drive.
- STAFF REPORT** Bailey Iott reviewed staff report FCU 08-11 for the Board.
- BOARD QUESTIONS** Sagami asked for clarification about the vehicle trips per day.
- Iott said one of the requirements of home occupations is that it can't generate more than eight vehicle trips per day. Therefore, there could be no more than four employees, other than family members, going in-and-out per day.
- Sagami asked if that would include vendor deliveries.
- Iott said it would include deliveries.
- APPLICANT** Jason Copping, applicant, handed out photos to the board. He said they are currently running a business out of the shop and all they do is store materials there. They have done extensive work to the property to make it look better. He admitted neglecting to look into uses for the property but they didn't intent to overstep any bounds. He said his own personal residence is on the property.
- Sagami asked about who resides on the property.

Copping said he and his wife live there.

Sagami asked if the Kramer's live there.

Copping said no.

Sagami asked who the employees are.

Copping said he and Kevin jointly own the business and property. They have three other employees; his stepbrother and two close friends.

Sagami asked staff if the three employees plus Mr. Kramer would max out the vehicle trips per day.

Iott said staff figured it as Jason living in the property; the other employees would account for the 8 vehicle trips.

Sagami asked if they are at the maximum number of employees already.

Iott said yes.

Copping said they aren't looking to expand their business; they're comfortable where they're at.

Klempel asked if they anticipate Saturday hours.

Copping said only if he has to make up hours. They don't allow the guys to work over 40 hours, so no weekends.

Wagner asked who did the rockwork and said it looks great.

**PUBLIC  
COMMENT**

Douglas Grobb, 210 Drake Drive, submitted photos and a copy of his presentation to the board. He talked about zoning in the area and neighborhood covenants. He said it was easy for him to look into what is and isn't allowed and wondered how the applicants didn't know the rules. He talked about the residential character of the neighborhood, private road use agreement, and road maintenance. He thinks their business devalues his lots and said he bought there in the first place with the understanding that businesses weren't allowed.

Paul Miller, 100 Drake Drive, talked about the road maintenance and maintaining a residential community.

Frank Kauzlarich, 225 Drake Drive, bought land here because there could be no businesses. He talked about the road maintenance.

Sagami asked what annual grading and oiling costs.

Kauzlarich said it ran about \$4,500 this year. He said people pay per household. He said it's costly and takes time.

Howard McMillan, 209 Drake Drive, lives about 500 yards from the business. He gave some history on how he ended up purchasing property there. He talked to the owner of the property before he purchased it and discussed the covenants. He doesn't think a plumbing business fits and would drastically change the character of Drake Drive.

Lauretta Reedy, 235 Drake Drive, said the landscaping on the subject property is very nice. She said the plumbing business is an improvement to the auto repair shop that was once there. She can't see it from where she lives but said it's fine. She mentioned the road and said that it is dusty. She said UPS delivers to her house frequently so doesn't see any argument in that regard.

**STAFF  
REBUTTAL**

Iott said there was no road user's agreement or covenants supplied to staff. She talked about overall traffic from the neighborhood and doesn't think this business would significantly increase traffic.

Sagami asked about enforcement.

Harris said there is a process for filing a complaint.

Sagami asked how deliveries would factor into the traffic.

Iott said the applicant stated there would be no deliveries made pertaining to their business. She said the 8 vehicle trips per day accounts for the employees.

Sagami said he has four children and between them and their friends they probably generate 20-30 vehicle trips per day. He wondered how this was so different.

Iott said they approximate 10 vehicle trips per house per day.

Klempel said the applicant stated that 7:00 am and 8:30 am would be when people are coming in and out.

Iott said yes; the employees would come in the morning to get their assignments and then leave for the day.

Hollinger said covenants get settled in a legal fashion as the board doesn't read or interpret them.

Harris said the County doesn't get into covenants. However, if the County is aware of the covenants they don't violate them.

**APPLICANT  
REBUTTAL**

Kevin Kramer, applicant, started Bighorn Plumbing 16 years ago. He said the number of employees would not change. He addressed the comment from a neighbor who doesn't like to look at their building. He said the building was there before they bought the property and said the looks of the property have been greatly improved. He said Jason snowplows the road and said it's beneficial to all the neighbors. He said when they looked into the property it was advertised in the real estate magazine for plumbers/electricians. He said maybe they should have looked into it more but now they're trying to make it right. He said if you drove by the property you wouldn't even know there's a business there.

Sagami mentioned the conflicting information regarding deliveries.

Kramer said there used to be deliveries but there won't be in the future.

Sagami asked for clarification as to the employees who come in the mornings.

Kramer said they arrive in company vehicles, get their jobs for the day and leave. They take the vehicles home at night. He said sometimes they don't even come there in the mornings. The only truck that's sitting there is Jason's personal truck.

Hollinger asked the applicants to give some brief history on what was there before.

Kramer said there used to be a bunch of old cars and race cars there but wasn't quite sure about the use.

Hollinger asked if the house was there too.

Kramer said no, just the shop. Jason built the house.

Hollinger asked how long the previous people were running their operation.

Kramer thought the building was put up in 1997; they bought the property in 2003.

Copping said there used to be garage doors on both ends. They got rid of one and replaced it with windows.

The board and the applicants talked about what triggered this to come to the board. The applicants seemed to think it was when they started doing landscaping; there was gravel trucks coming and going.

Sagami asked if there was a permit for the previous business.

Iott said no, this actually came in as a complaint. Staff decided this was an alternative to fix the violation.

**BOARD  
DISCUSSION**

Sagami asked Mr. Miller if he disagreed with the applicant's characterization of traffic and deliveries.

Miller said it's pretty accurate now, but wasn't before when there were deliveries and employees coming and going.

Sagami asked if he would still disapprove even if there were only the few stops in the morning.

Miller said he still objects.

Klempel wanted to know if the shop was built when Mr. Grobb purchased his property.

Grobb said the building was built 17 years after he bought his property.

Sagami operates a home business himself and believes the right to make a living is one of the biggest privileges we have. He doesn't think the traffic seems too outrageous and reiterated that his kids probably generate more traffic. He feels there is a good mechanism in place should the applicants do something they're not supposed to.

**MAIN MOTION**

Wagner made a motion seconded by Hollinger to adopt staff report FCU 08-11 as findings-of-fact with the proposed conditions.

**BOARD  
DISCUSSION**

Sagami asked staff if there is a way to make sure deliveries don't become problematic again.

Iott said the board could amend condition #6.

Sagami told the applicant that offering to pay more for road maintenance would be the right thing to do although he wasn't going to condition it.

Copping mentioned he plows the road and doesn't charge to do it. He said they've told the neighbors before they would take care of more of the road.

**MOTION TO  
AMEND COND #6**

Sagami made a motion seconded by Wagner to amend condition #6 to read: *Materials associated with the business will not be stored outside the accessory building, and materials will be delivered only by Bighorn Plumbing.*

**ROLL CALL TO  
AMEND COND #6**

On a roll call vote the motion passed unanimously.

**MAIN MOTION  
ROLL CALL**

On a roll call vote the motion passed unanimously.

**ZINKE  
(FCU 08-12)**

(53:40)

A request by Patricia L. Zinke, for a Conditional Use Permit to construct a community residential building, which will be utilized as an assisted living personal care facility with a maximum of 12 occupants, within the Highway 93 North, R-2 (One-Family Limited Residential) Zoning District. The property is located off Wintercrest Drive.

**STAFF REPORT**

Allison Mouch reviewed staff report FCU 08-12 for the Board.

**BOARD  
QUESTIONS**

Sagami asked if staff received any public comment.

Mouch said no.

Sagami asked if there is any proposed signage.

Mouch said yes, condition #2 addresses signage.

The board and staff further discussed signage.

**APPLICANT**

Patricia Zinke agreed that Wintercrest Drive needs some work. She explained why she wants to do an assisted living facility. She asked for fewer requirements to upgrade the road as what staff is currently asking for would be expensive.

Klempel asked if she had any contact with the Montana Department of Transportation.

Zinke said no.

Sagami asked about employees.

Zinke said she lives several feet from the proposed facility. It would be a family-run business.

Wagner thinks doing an assisted living facility is noble but thinks the road is a problem.

Zinke agreed.

Clarence Blackwell, fiancé of the applicant, talked about the road. He mentioned some alternatives, to what staff is suggesting, and said they could do things more cost efficient.

Andy Belski, of Flathead Geomatics, said he has been working with the applicant for quite a while. She was once approved for a major subdivision but gave that up in hopes of doing an assisted living

facility. He talked about upgrading the road and said a road doesn't necessarily need to be paved in order to be safe.

**PUBLIC  
COMMENT**

None.

**STAFF  
REBUTTAL**

Mouch mentioned condition #2 in regard to signage.

Harris said staff is sensitive to the need for senior care facilities but there is major concern with the road. He said staff has talked to the Road & Bridge department and said there really isn't a paving substitute for asphalt. He said care facilities need to go in locations that make sense.

The board and staff discussed paving at length.

Hollinger asked the applicants about some of the costs.

Blackwell said they started with the intention of doing a 20-room facility but dropped down to 12-rooms because of zoning. He said the revenue for a 20-room facility would enable them to pave the road and do what it takes to make things work. Since zoning doesn't allow for it, they had to redo some of their plans.

Sagami asked why the applicants couldn't do 2 10-room or 12-room facilities on 2 difference parcels.

Mouch said they would have to do 2 conditional use permits. It would be doubling the capacity of the facility; from a financial standpoint that's understandable, but you have to think about the character of the surrounding area.

Klempel asked how far away they are from city sewer and water.

The applicant pointed out that they have state approval.

Blackwell said they aren't going to have some industrialized looking building; basically it's going to look like a very nice house. He talked about their intentions with the property. He talked about the road.

Zinke said that having a 20-room facility versus a 12-room facility doesn't increase the need for more staff.

**BOARD  
DISCUSSION**

The board, staff, and the applicants discussed the road issue, other issues pertaining to the request, and future possibilities for this project.

**MOTION**

Sagami made a motion seconded by Klempel to adopt staff report FCU 08-11 as findings-of-fact with the recommended conditions.

**ROLL CALL**

On a roll call vote the motion passed unanimously.

**HARTMAN  
(FZV 08-03)**

(1:44:40)

A request by Keith and Susan Hartman, for a Zoning Variance to property within the Evergreen, R-1 (Suburban Residential) Zoning District. The applicants are requesting a variance to Section 3.09.040 (6) of the Flathead County Zoning Regulations which states the maximum fence height can only be six-feet in height. The applicant is requesting to install an eight-foot fence to provide noise reduction and privacy as the property abuts Reserve Drive. The property is located at 621 Country Way North.

**STAFF REPORT**

Dianna Broadie reviewed staff report FZV 08-03 for the Board.

**BOARD  
QUESTIONS**

Sagami asked why there's a 6-ft height limitation.

Broadie said it's generally aesthetic and explained some of the visual impacts.

Sagami wondered if it would be a safety issue.

Harris said it may be a safety issue but for privacy, a 6-ft wall is a collective minimum height because most people aren't that tall.

Hollinger said it may be somewhat of a safety issue for emergency responders if someone needed to scale the wall.

Harris said 6-ft is pretty standard across the country.

Sagami was puzzled that a giant wall of arborvitae would provide less sound buffer than a fence.

Broadie said that's correct; she got the information from a sound expert.

Sagami was concerned about this variance setting precedent.

Broadie said West Reserve road is very major and doesn't think this situation will arise everywhere.

**APPLICANT**

Keith Hartman, applicant, came forward to explain their request. He said there is a portion of their property that sits 3-feet below the road. If the property was even with the road he wouldn't need the variance. He talked to the neighbors on both sides and they didn't have a problem with it. He talked about doing a wall-system and said it would look nice.



Susan Hartman, applicant, talked about all the additional traffic there will be when the mall goes in. She said after-work traffic is already backed up way behind their yard and big trucks use their Jake-brakes. They have children and would like to have a barrier from noise and traffic.

Keith said they have twin 6-year olds and said they would also like this for a safety factor. They want to diminish the noise as much as they can. He asked Broadie for clarification on the modifications to the fence height.

Sagami asked why they want an 8-ft fence vs. a 9-ft.

Keith said they talked to a guy about doing the wall-system and he suggested doing 8-ft. He also said the cost increases a lot the higher you go.

**PUBLIC  
COMMENT**

None.

**MOTION**

Klempel made a motion seconded by Wagner to adopt staff report FZV 08-03 as findings-of-fact.

**ROLL CALL**

On a roll call vote the motion passed unanimously.

**OLD BUSINESS**

None.

**NEW BUSINESS**

None.

**ADJOURNMENT**

The meeting was adjourned at 8:05 p.m. on a motion by Wagner.

The next meeting will be held at 6:00 p.m. on October 7, 2008.

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Scott Hollinger, President

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Jill Goodnough, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 10/7/08